The opinion in support of the decision being entered today is not binding precedent of the Board

Filed by: Trial Section Merits Panel

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P.O. Box 1450

Alexandria, VA 22313-1450

Tel: 703-308-9797 Fax: 703-305-0942 Paper No.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

OSIRIS THERAPEUTICS, INC

Junior Party, (Patent 6,030,836),

APR 2 2 2004

FAXED

PAT. & T.M. OFFICE BOARD OF PATENT APPEALS AND INTERFERENCES

CASE WESTERN RESERVE UNIVERSITY

V.

Senior Party, (Application 09/321,655).

Patent Interference No. 105,197

Before LANE, MEDLEY, and TIERNEY Administrative Patent Judges.

MEDLEY, Administrative Patent Judge.

JUDGMENT -- NO INTERFERENCE-IN-FACT

Upon consideration of the record, it is

ORDERED that in view of the three-judge merits panel decision (Paper 22) that there is no interference-in-fact, final judgment is entered that there is no interference-in-fact between (1) Osiris Therapeutics, Inc. claims 1-3, 8, 12 and 13, and (2) Case Western Reserve University claims 2-5;

FURTHER ORDERED that the subject matter of Osiris Therapeutics, Inc. claims 1-3, 8, 12 and 13 is no impediment under the law to the issuance of a patent to Case Western Reserve University;

FURTHER ORDERED that the subject matter of Case Western Reserve University claims 2-5 is no basis for cancellation of any of Osiris Therapeutics, Inc. claims 1-3, 8, 12 and 13;

FURTHER ORDERED that a copy of this paper shall be made of record in files of application 09/321,655 and U.S. Patent 6,030,836; and

FURTHER ORDERED that the files of application 09/321,655 and U.S. Patent 6,030,836 be returned to the examiner for further action consistent with this opinion¹.

SALLYGARDNER LANE
Administrative Patent Judge

BOARD OF PATENT
SALLYC. MEDLEY
Administrative Patent Judge

MICHAEL P. TIERNEY
Administrative Patent Judge

MICHAEL Patent Judge

AMD
INTERFERENCES

¹ The examiner shall enter into the Osiris Therauptic Inc. 6,030,836 patent file record Osiris' disclaimer of claim 18 (Paper 19). See 37 CFR § 1.321(a).

cc (via facsimile):

Counsel for Osiris:

Elliot M. Olstein, Esq.
CARELLA, BYRNE, BAIN, GILFILLAN,
CECCHI, STEWART & OLSTEIN
5 Becker Farm Road
Roseland, N.J. 07068

Fax: 973-994-1744

Counsel for CWRU:

Richard S. Wesorick, Esq.
TAROLLI, SUNDHEIM, COVELL & TUMMINO LLP
526 Superior Avenue, Suite 1111
Cleveland, OH 44114-1400

Fax: 216-621-4072